

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No. 21-10217-PBS
	)	
OSAKPAMWAM HENRY OMORUYI,	)	
	)	
Defendant.	)	<b>HEARING REQUESTED</b>

**DEFENDANT HENRY OMORUYI'S OPPOSITION TO GOVERNMENT'S  
MOTION FOR RESTITUTION [#232] AND NOTICE OF JOINDER IN  
CODEFENDANT'S OPPOSITION [ECF#233]**

NOW COMES defendant Henry Omoruyi and respectfully opposes the government's Motion for Restitution [ECF#232] and joins in the opposition of his codefendant [ECF#233]. In support thereof, counsel states the following:

To the extent that the Government seeks restitution for amounts not proven at trial through witness testimony, it has failed to meet its burden of proof by a preponderance of evidence of any restitution loss or causation. *United States v. Babich*, 2020 U.S. Dist. LEXIS 25952, (D.Mass. 2020)(Although the court noted that the victim's estate had argued that "causation is not an issue," it made no argument to support causation). In *Babich*, the court found that the letter from victim's counsel was insufficient to establish by a preponderance of the evidence that it was foreseeable that the victim could overdose due to Defendants' conspiracy or, by extension, that the parents' losses were foreseeable. The court

declined to award restitution. .

In the instant case there is no evidence at all as to how non-testifying witnesses/victims sustained any loss that was caused by the Defendant. As a result, the court is respectfully urged to deny the Government's motion as to non-testifying witnesses.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I, Peter Charles Horstmann, hereby certify that on this 5th day of January, 2024, a copy of the forgoing motion was electronically served upon Chris Markham and Ben Saltzman, Assistant United States Attorneys, United States Attorney's Office, One Courthouse Way, Boston, MA 02210 and all counsel of record.



Peter Charles Horstmann, Esquire